



**HARYANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICE TAX,**



**HARYANA VANIJYA BHAWAN, PLOT NO. 1-3,
SECTOR 5, PANCHKULA-134151 (HARYANA)**

ADVANCE RULING NO. HR/HAAR/06 /2022-23

Name & Address of the Applicant.	M/s Aroma Agrotech Pvt. Ltd. Shop No. 145, 1st Floor, New Grain Market Gharaunda, Karnal (Haryana), 132214.
GSTIN of the Applicant.	06AAICA2887L1Z8
Date/Receipt of Application:	02.09.2022
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised by the applicant.	Section 97(2) Clauses – (b) Applicability of a notification issued under the provisions of this Act; (e) Determination of the liability to pay tax on any goods or services or both.

Memo 1417

Dated: 02/12/2022

APPLICANT'S ELIGIBILITY FOR SEEKING AN ADVANCE RULING:

To file an application before the Authority of Advance Ruling, the applicant must satisfy the conditions prescribed under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act, 2017) and Haryana Goods and Services Tax Act, 2017 (hereinafter referred to as HGST Act, 2017). Since the provisions of both the Acts are *parimateria*, any reference to provisions of CGST Act, 2017 in this order should be construed as a reference to corresponding provisions of the HGST Act, 2017/IGST Act, 2017 as well.

Sections 97(2) of the CGST Act, 2017 prescribes that Advance Ruling may be sought inter alia on the question of (b) Applicability of a notification issue under the provisions of this Act. (e) Determination of the liability to pay tax on any goods or services or both.

Proviso with reference to the Section 98(2) of CGST Act, 2017 states that where the questions raised in the application is already pending or decided in any proceedings in the case of the applicant under any provision of this Act, the application may be rejected by the Advance Ruling Authority after providing an opportunity of being heard to the applicant. But in the present case, the applicant

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has undertaken in form ARA-01 that the issue is neither pending nor decided in any proceedings under any of the provisions of the Act. Besides the applicable fees stands deposited by the applicant. So, he is eligible to seek an Advance Ruling under the above provisions and the case is being heard on merits.

Statement of Fact as per ARA-01:-

The applicant is engaged in the business of manufacturing and supplying of rice. He is supplying rice to the customers in pre-packaged and labelled packages, having quantity upto 25 kilograms (25 kgs). There are three types of customers to whom supply is being made by the applicant explained as under:

A. Customers located abroad in non taxable territory (Foreign Buyer)-

(1) Foreign buyers provide the specification which have to be printed/labelled on the packages of rice, which are intended for sale/supply to him. Therefore, we procure empty bags and get them printed/labelled according to the specifications of the foreign buyers from the supplier of packing materials.

(ii) The supplier of packing material dispatches the printed/labelled empty bags, having capacity upto 25 kgs, to our premises.

(iii) We pack rice in our factory in these bags and export it to foreign buyer.

B. Customers located in India who purchase rice from us for the purpose of exports on "bill to ship to" basis ("Exporter")

(1) The supplier of packing material dispatches the printed/labelled empty bags, having capacity upto 25 kgs, to our premises on directions of exporter (i.e., on "bill to ship to" basis, bill to exporter and ship to us).

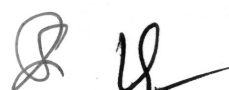
(II) We pack the rice in empty bags and dispatch the pre-packaged rice to customs port on instructions of Exporter (i.e., bill to exporter and ship to customs port).

C. Exporter ultimately exports the rice to foreign buyer. Customers located in India who purchase rice from us for the purpose of exports ("Exporter")

i. The supplier of packing material dispatches the printed/labelled empty bags, having capacity upto 25 kgs, to our premises on directions of exporter (i.e., on "bill to ship to" basis, bill to exporter and ship to us).

ii. We pack the rice in empty bags and dispatch the pre-packaged rice to factory of Exporter. Exporter exports the pre-packaged rice to foreign buyer.

1. In view of amendment in Entry 51 of Schedule 1 of Notification No 1/2017-Central Tax (Rate) dated 28-6-2017, Central Tax (CGST) @2.5% and State Tax (SGST) @2.5% Is applicable on supply of pre-packaged and labelled rice with effect from 18th July 2022.



Further, as per Explanation (1) of Notification No 1/2017-Central Tax (Rate), The expression 'pre-packaged and labelled' means a 'pre-packaged commodity' as defined in clause (1) of section 2 of the Legal Metrology Act, 2009 (1 of 2010) where, the package in which the commodity is pre-packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made thereunder.

2. The relevant extracts of Notification No 06/2022-Central Tax (Rate) dated 13th July, 2022 is being reproduced as following:-

B. in Schedule 1-2.5%,

(viii) against 5. Nos. 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58 and 59, in column (3), for the portion beginning with the words "put up in" and ending with the words and bracket. The words, pre-packaged and labelled" shall be substituted;

3. The Ministry of Finance has clarified certain queries regarding the levy of GST on 'pre-packaged and labelled' goods through press release dated 18th July 2022. And it has been clarified in FAQ 2 that a) if specified commodities are supplied in a package that do not require declaration(s)/compliance(s) under the Legal Metrology Act, 2009 (1 of 2010), and the rules made thereunder, the same would not be treated as pre-packaged and labelled for the purposes of GST levy.

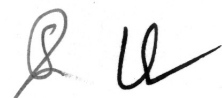
b) In the context of food items (such as pulses, cereals like rice, wheat, flour etc), the supply of specified pre-packaged food articles would fall within the purview of the definition of 'pre packaged commodity' under the Legal Metrology Act, 2009, and the rules made thereunder, if such pre-packaged and labelled packages contained a quantity upto 25 kilogram [or 25 litre] In terms of rule 3(a) of Legal Metrology (Packaged Commodities) Rules, 2011, subject to other exclusions provided in the Act and the Rules made thereunder.

The applicant's interpretation of the legal provisions with respect to the issue at hand:-

1. GST would apply on specified goods where the pre-packaged commodity is supplied in packages containing quantity of less than or equal to 25 kg.

2. Pre-packaged and labelled commodities manufactured exclusively for export have not been excluded from the Legal Metrology Act, 2009 (1 of 2010), and the rules made thereunder.

3. Therefore, we understand that GST would be applicable on the supply of pre-packaged and labelled rice upto 25 kgs, Irrespective of the fact that it is for domestic sale or for the purpose of exports.



4. Without prejudice to the above, it is stated that if the authority do not agree with the contentions/interpretations, then supply of pre-packaged rice upto 25 kg for the purpose of Export will be exempt from GST. Hence, following compliances under the GST law would not be required on export of the exempted goods:

- a. Issuance of E-way bill
- b. Issuance of E-Invoice
- c. Obtaining Letter of Undertaking/Bond for export

Hence, it will be very difficult to prove to the field offices inspecting the lorry/truck carrying the pre-packaged rice, that the said goods are being transported for exports.

Questions on which Advance Ruling is being sought:-

- A. Whether GST would be leviable on export of pre-packaged and labelled rice upto 25 Kgs, to foreign buyer?
- B. Whether GST would be applicable on supply of pre-packaged and labelled rice upto 25 Kgs, to exporter on "bill to ship to" basis i.e., bill to exporter and ship to customs port. (Exporter ultimately exports the rice to foreign buyer).
- C. Whether GST would be applicable on supply of pre-packaged and labelled rice upto 25 Kgs, to the factory of exporter. (Exporter will export the rice).

PERSONAL HEARING:

On 11.10.2022 Sh. Pradeep Tayal, Chartered Accountant presented the matter before the authority on behalf of the applicant and apprized the details of the case. Whereas the Proper Officer has submitted the comments on the issue in writing. The basic query of the applicant is that "Whether the supplying of 25 Kg rice in pre-packaged & labelled bags for export (in the non taxable territory) is taxable or not?"

Comments of the proper officer

It is submitted that as per Notification No 06/2022-Central Tax (Rate) dated 13 July 2022, that GST @5% is applicable on supply of pre-packaged and labelled rice upto 25 kg, if following conditions are satisfied:

- I. It is pre-packaged and labelled; and
- II. It is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the rules made thereunder. Above provision is applicable on all goods whether supplied domestically or are being exported.



2. Regarding query no. 2, whether GST is applicable on pre-packaged and labelled rice upto 25 KGs, to exported on "bill to ship" basis i.e bill to exporter and ship to customs port. In this regard it is submitted that declaration to be mentioned on pre-packaged commodities, Section 18 of Legal Metrology Act, 2009 reads as under:

"No person shall manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodities unless such package is in such standard quantities or number and bears thereon such declarations and particulars in such manner as may be prescribed."


3. Regarding query no. 3, whether GST would be applicable on supply of pre-packaged and labelled rice upto 25 KGs, to the factory of exporter. In this regard "Neither notification no. dated 6/2022 and dated 13th July 2022, that nor legal Metrology Act has made any differentiation with regard to applicability of GST on export of goods/mentioning of declarations on pre-packaged commodities for export. Therefore, if rice is being supplied in pre-packaged and labelled bags, having capacity upto 25 Kg. it will be liable for GST 5% irrespective of the fact that it is for domestic supply or for export.

DISCUSSION AND FINDING:

The applicant is a manufacturer of rice and supplies the goods in the taxable as well as non taxable territory. He has mentioned that there are three types of customers to whom the supply of rice is being made.

- i. The applicant exports the goods to the foreign buyer/recipient after procuring the empty bags from the domestic market and printing and labelling it as per the specification given by the recipient of the goods and pack 25 Kg rice in the said labelled and printed bag.
- ii. In the mode of "bill to ship to" model of export of the goods, the applicant receives the printed/labelled empty having capacity upto 25 kg from the supplier of the packing materials to his own premises on the direction of the exporter and thereafter the applicant pack the rice in these bags and dispatch the pre packaged and labelled goods to the custom port on the instruction of the exporter (i.e. bill to exporter and ship to custom port).
- iii. Thirdly, the applicant pack the rice in printed and labelled empty bags having capacity upto 25 Kg provided by the exporter and dispatch the pre-packaged and labelled goods to the factory of the exporter(supply

supply of pre-packaged and labelled rice upto 25 Kgs, to the factory of exporter?


(Sunder Lal)
Member CGST


(K. Singh)
Member SGST

o/c

Regd. /Speed Post

M/s Aroma Agrotech Pvt. Ltd.

Shop no. 145, 1st Floor, New Grain Market

Gharaunda, Karnal

Haryana, 132214.

Copy to:

1. The Additional Commissioner, Central Goods & Service Tax Commissionerate, Plot No. 5, Sector 25, Panchkula (Haryana).
2. The Deputy Excise and Taxation Commissioner (ST), Karnal
3. The Deputy/ Assistant Commissioner, Central Goods & Service Tax, Commissionerate:- Panchkula, Division Karnal

Note: An Appeal against this advance ruling order lies before the Haryana Appellate Authority for Advance Ruling for Goods and Service Tax Haryana Vanijya Bhawan, Plot No. 1-3, Sector 5, Panchkula-134 151 (Haryana), within 30 days from the date of service of this order.